

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.153 OF 2004

IN

FIRST APPEAL NO.938 OF 2002

Laxman Bhaguji Bhoir (deceased)

LRS.

1. Smt.Savitribai L. Bhoir & ors. .. Applicants
(Org. Respondents)

V/s.

The State of Maharashtra. .. Respondent
(Org. Appellant)

Mr.Naveen B. Shah for Applicants.

Mr.K.K.Tated, AGP for Respondent.

CORAM : S.B. MHASE &

R.S. MOHITE, JJ.

DATED : 11th October 2004

P.C. :

1. Heard. This matter arises from the land acquisition. A decretal amount i.e. Rs.12,74,740/- has been deposited by the Respondent-State Government. This Application is moved for withdrawal of the said amount. Mr.Shah, learned Counsel appearing for the Applicants, contended that the land of the Applicants has been acquired and no enhanced amount has been paid to the Applicants, as a result of the stay granted in

the matter. He submitted that 50% of the amount be released without surety and with regard to the remaining 50% amount, the Applicants are ready to give a solvent surety. Mr. Tated, learned AGP appearing for the Respondent-State Government, has vehemently opposed for releasing the said amount. He submitted that the market price has already been paid and the Reference Court has exorbitantly enhanced the amount of compensation and, therefore, unless the Bank Guarantee is furnished, the amount may not be released and thus, he insisted for a complete Bank Guarantee in respect of the said amount. What we find appropriate is that the said amount would be divided in three parts viz. that some amount be released with Bank Guarantee, some amount with solvent surety and the remaining amount without surety. Hence, we pass the following order:-

(i). The amount of Rs.4,00,000/- be released in favour of the Applicants without surety.

(ii). Further amount of Rs.4,00,000/- be released after having tendered the solvent surety by the Applicants to the satisfaction of the Reference Court.

(iii). Remaining amount of Rs.4,74,740/- be released after the Applicants furnish a Bank Guarantee of any Nationalised Bank.

2. In case the Applicants fail to furnish a solvent surety within a period of one month from the receipt of the writ to the Trial Court and a Bank Guarantee within a period of two months from the receipt of the writ to the Trial Court, the respective amounts be deposited in any Nationalised Bank for a period of five years initially and if the matter is not disposed of by that time, the Reference Court shall go on depositing it for further period of three years and every time till the final disposal of the matter. However, in that eventuality, the interest accrued may be paid to the Applicants.

3. In view of the above order, this Civil Application is disposed of.

4. Authenticated copy of this order be provided.

(R.S.MOHITE, J.)

(S.B.MHASE, J.)